

1 2016 June and September Monthly disclosure reports.³ Finally, the Complaint alleges that the
2 Committee failed to include a proper disclaimer on its mailer that opposed a Libertarian candidate for
3 U.S. Senate.⁴ The Committee responds that it revised its Statement of Organization as soon as
4 Tisdale officially became the treasurer, its cash-on-hand disclosures were accurate, and its disclaimer
5 was sufficiently complete.⁵

6 Political committees must file a Statement of Organization naming, among other things, the
7 name of the committee's treasurer.⁶ Any change in the information provided to the Commission,
8 including the name of the committee's treasurer, must be reported in an amended Statement of
9 Organization within 10 days of the change.⁷ Further, the treasurer must file reports of receipts and
10 disbursements in accordance with the provisions of the Act.⁸ These reports must include the amount
11 of the committee's cash on hand at the beginning of the reporting period.⁹ Additionally, the Act and
12 Commission regulations require disclaimers on public communications made by political
13 committees.¹⁰

³ *Id.* at 2.

⁴ *Id.* See also Compl. Attach. 7.

⁵ Resp. at 1 (Nov. 17, 2016); Resp. Attach. at 1. Tisdale avers that all Committee reports, including those that have been amended, are now accurate.

⁶ 52 U.S.C. § 30103(b)(4); 11 C.F.R. § 102.2(a)(1)(iv).

⁷ 52 U.S.C. § 30103(c); 11 C.F.R. § 102.2(a)(2).

⁸ 52 U.S.C. § 30104(a)(1).

⁹ 52 U.S.C. § 30104(b)(1); 11 C.F.R. § 104.3(a)(1).

¹⁰ 52 U.S.C. § 30120(a), (c); 11 C.F.R. § 110.11(a)-(c). A "public communication" is defined as a "communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public advertising." 11 C.F.R. § 100.26. The regulations further require that disclaimers for printed communications must be conspicuous and clearly state that they are paid for or authorized by a candidate or candidate's committee, state the committee's street address, telephone number, or web address, be of sufficient type size to be readable, and be in a printed box set apart from the rest of the communication. 11 C.F.R. § 110.11(b)(1), (c)(1) and (2).

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1 Some of state committee's reports indicate that Tisdale may have become the treasurer as
2 early as June 2016, but the Committee did not amend its Statement of Organization until October 26,
3 2016.¹¹ However, given the Committee's corrective action, and in furtherance of the Commission's
4 priorities, relative to other matters pending on the Enforcement docket, the Office of General Counsel
5 recommends that the Commission exercise its prosecutorial discretion and dismiss the allegation that
6 the Committee violated 52 U.S.C. § 30103(c) and 11 C.F.R. § 102.2(a)(2).¹²

7 There is no information to suggest that the Committee misreported its cash on hand in its
8 2016 disclosure reports.¹³ Therefore, we recommend that the Commission find no reason to believe
9 that the Committee violated 52 U.S.C. § 30104(b)(1) and 11 C.F.R. § 104.3(a)(1).

10 Finally, the disclaimer on the mailer was deficient because it did not include a statement that
11 the mailer was not authorized by any candidate or candidate's committee, a printed box around the
12 disclaimer, and the physical address or web address of the Committee. Although the disclaimer is
13 insufficient, it nevertheless includes information indicating that the Committee was responsible for it,
14 as well as a mailing address. Therefore, in consideration of the Commission's priorities, relative to
15 other matters pending on the Enforcement docket, we recommend that the Commission exercise its
16 prosecutorial discretion and dismiss the allegation that the Committee violated 52 U.S.C. § 30120(a),
17 (c), and 11 C.F.R. § 110.11(a)-(c).¹⁴

18 RECOMMENDATIONS

- 19
20 1. Dismiss the allegation that the Tuckerman Babcock and the Alaska Republican Party and
21 Julie Tisdale in her official capacity as treasurer violated 52 U.S.C. § 30103(c) and
22 11 C.F.R. § 102.2(a)(2) ;

¹¹ Alaska Republican Party, FEC Form 1, *Statement of Organization* (Oct. 26, 2016).

¹² *Heckler v. Chaney*, 470 U.S. 821 (1985).

¹³ Although the Committee amended its 2016 June Monthly report, the cash on hand amount remained the same. According to the Reports Analysis Division, the Committee only reported a \$35 increase in receipts.

¹⁴ *Heckler at* 470 U.S. 821.

2. Find no reason to believe that Tuckerman Babcock and the Alaska Republican Party and Julie Tisdale in her official capacity as treasurer violated 52 U.S.C. § 30104(b)(1) and 11 C.F.R. § 104.3(a)(1);
3. Dismiss the allegation that Tuckerman Babcock and the Alaska Republican Party and Julie Tisdale in her official capacity as treasurer violated 52 U.S.C. § 30120(a), (c), and 11 C.F.R. § 110.11(a)-(c).;
4. Approve the Factual and Legal Analysis;
5. Approve the appropriate letters; and
6. Close the file.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

BY: Stephen Gura
Stephen Gura
Deputy Associate General Counsel

7.21.17
Date

Jeff S. Jordan
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Wanda D. Brown
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Attachment: Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

1
2
3 RESPONDENTS: Alaska Republican Party and MUR 7164
4 Julie Tisdale, as treasurer
5 Tuckerman Babcock
6

7 **I. INTRODUCTION**

8 This matter was generated by a Complaint alleging that the Alaska Republican Party,
9 Chairman Tuckerman Babcock, and Julie Tisdale in her official capacity as treasurer
10 (collectively the "Committee") violated the Act and Commission regulations by failing to timely
11 file a Statement of Organization naming the current treasurer and filing reports with the former
12 treasurer's name.¹ Further, the Complaint alleges that Tisdale failed to accurately disclose cash
13 on hand held by the Committee's "Victory Fund" in its 2016 June and September Monthly
14 disclosure reports.² Finally, the Complaint alleges that the Committee failed to include a proper
15 disclaimer on its mailer that opposed a Libertarian candidate for U.S. Senate.³

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 The Committee responds that it revised its Statement of Organization as soon as Tisdale
18 officially became the treasurer, its cash-on-hand disclosures were accurate, and its disclaimer
19 was sufficiently complete.⁴

20 Political committees must file a Statement of Organization naming, among other things,
21 the name of the committee's treasurer.⁵ Any change in the information provided to the

¹ Compl. at 1 (Oct. 27, 2016).

² *Id.* at 2.

³ *Id.* See also Compl. Attach. 7.

⁴ Resp. at 1 (Nov. 17, 2016); Resp. Attach. at 1. Tisdale avers that all Committee reports, including those that have been amended, are now accurate.

1 Commission, including the name of the committee's treasurer, must be reported in an amended
2 Statement of Organization within 10 days of the change.⁶ Further, the treasurer must file reports
3 of receipts and disbursements in accordance with the provisions of the Act.⁷ These reports must
4 include the amount of the committee's cash on hand at the beginning of the reporting period.⁸
5 Additionally, the Act and Commission regulations require disclaimers on public communications
6 made by political committees.⁹

7 Some of state committee's reports indicate that Tisdale may have become the treasurer as
8 early as June 2016, but the Committee did not amend its Statement of Organization until October
9 26, 2016.¹⁰ However, given the Committee's corrective action, and in furtherance of the
10 Commission's priorities, relative to other matters pending on the Enforcement docket, the
11 Commission exercised its prosecutorial discretion and dismissed the allegation that the
12 Committee violated 52 U.S.C. § 30103(c) and 11 C.F.R. § 102.2(a)(2).¹¹

⁵ 52 U.S.C. § 30103(b)(4); 11 C.F.R. § 102.2(a)(1)(iv).

⁶ 52 U.S.C. § 30103(c); 11 C.F.R. § 102.2(a)(2).

⁷ 52 U.S.C. § 30104(a)(1).

⁸ 52 U.S.C. § 30104(b)(1); 11 C.F.R. § 104.3(a)(1).

⁹ 52 U.S.C. § 30120(a), (c); 11 C.F.R. § 110.11(a)-(c). A "public communication" is defined as a "communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public advertising." 11 C.F.R. § 100.26. The regulations further require that disclaimers for printed communications must be conspicuous and clearly state that they are paid for or authorized by a candidate or candidate's committee, state the committee's street address, telephone number, or web address, be of sufficient type size to be readable, and be in a printed box set apart from the rest of the communication. 11 C.F.R. § 110.11(b)(1), (c)(1) and (2).

¹⁰ Alaska Republican Party, FEC Form 1, *Statement of Organization* (Oct. 26, 2016).

¹¹ *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 There is no information to suggest that the Committee misreported its cash on hand in its
2 2016 disclosure reports.¹² Therefore, the Commission found no reason to believe that the
3 Committee violated 52 U.S.C. § 30104(b)(1) and 11 C.F.R. § 104.3(a)(1).

4 Finally, the disclaimer on the mailer was deficient because it did not include a statement
5 that the mailer was not authorized by any candidate or candidate's committee, a printed box
6 around the disclaimer, and the physical address or web address of the Committee. Although the
7 disclaimer is insufficient, it nevertheless includes information indicating that the Committee was
8 responsible for it, as well as a mailing address. Therefore, in consideration of the Commission's
9 priorities, relative to other matters pending on the Enforcement docket, the Commission
10 exercised its prosecutorial discretion to dismiss the allegation that the Committee violated
11 52 U.S.C. § 30120(a), (c), and 11 C.F.R. § 110.11(a)-(c).¹³

¹² Although the Committee amended its 2016 June Monthly report, the cash on hand amount remained the same. According to the Reports Analysis Division, the Committee only reported a \$35 increase in receipts.

¹³ *Heckler at 470 U.S. 821.*